

REMARKS

Applicant thanks the Examiner for the phone discussions regarding this case. Telephone discussions occurred on July 29, 2011, and January 11, 2012.

During the call on July 29, Applicant pointed out that claim 1 as amended included the term “running” in the claim phrase “current running time of day”, as explained in the Remarks accompanying the RCE that had just been filed. During the July 29 call, amended claim 1 was also discussed with respect to the art, such as Young, which was also addressed in the Remarks accompanying the RCE.

During the call on January 11, the Examiner indicated that claim 1, as amended in this Response, overcame the Res Judicata rejection and the novelty rejection over USPN 5,479,268 (“Young”). The Examiner further indicated that claim 23 as presently amended provided arguable distinctions over the combination of Young and the Program and System Information Protocol for Terrestrial Broadcast and Cable document (“the ATSC document”), but no agreement was reached. Applicant and the Examiner discussed claims 1 and 23, and the references of Young and the ATSC document, as further described below.

A non-final Office Action was mailed October 11, 2011. In this amendment and response, claims 20, 23, 26-29, 32, and 33-38 are amended. Additionally, claims 21-22 and 30-31 are cancelled. No new claims are added. No new matter is added in the present amendments.

As an introduction into the general nature of the claimed invention, various aspects of an implementation described in our specification at pages 10-12 are briefly discussed. That implementation synchronizes a local clock of a receiver with a local clock of a program source. The local clock of the receiver tells you what the receiver thinks the current time is (for example, 1:15 p.m.), and the local clock of the program source tells you what the program source thinks the current time is (for example, 1:14 p.m., which is slightly different from what the receiver thinks the current time is). The synchronization causes the local clock of the receiver (referred to as a “scheduling clock”) to have the same time as the local clock of the program source. In effect, the receiver lets the program source tell the receiver what the current time is. The receiver

then uses its synchronized local clock to determine when the current time equals the scheduled start time for a desired program. This is important because the desired program will be broadcast when the program source thinks the start time has arrived. Therefore, by looking to the program source for the current time, the receiver will be assured that it knows when to start recording the desired program. In effect, the receiver is looking at the wristwatch of the program source to determine when the program is going to start.

This implementation is extended to multiple program sources. Each of the program sources may think the current time is slightly different. For example, program source two may think the current time is 1:16 p.m. The receiver would then maintain two local clocks. A first receiver clock is synchronized with the first program source (described above), and a second receiver clock is synchronized with the second program source. The receiver, in effect, borrows the wristwatch of the first program source so that the receiver knows when to record the desired program from the first program source, and simultaneously borrows the wristwatch of the second program source so that the receiver knows when to record the desired program from the second program source.

Claims 20, 29, and 36 stand rejected based on Res Judicata over the decision rendered by the BPAI on May 31, 2011. The Office Action maintains that the recited “current running time of day” did not provide a different claim scope than the previously recited “current time of day”. Applicants have amended the independent claims to further distinguish the cited sections of Young and to provide for a different claim scope. During the January 11 phone call, the Examiner stated that the Res Judicata rejection would be overcome by the present amendments. The scope of independent claims 20, 29, and 36 is discussed below in the response to the art-based rejections. Applicant believes that the Res Judicata rejection has been overcome.

Before addressing the art-based rejections of the Office Action, Applicant indicates below the support for various amendments to claims 20, 29, and 36.

Applicant has introduced the term “elapsed scheduling time clock” into claims 20, 29, and 36. The term “elapsed” finds support, at least, at page 10, line 22, and the surrounding discussion. The term “scheduling time clock” finds support, at least, in the discussion of a “scheduling clock” at, for example, page 11, lines 37 and 39, and the

surrounding discussion, and also at page 12, lines 12-20, and the surrounding discussion. The “scheduling clock” described in pages 11 and 12 of the application is not a scheduled start time for a program, but, rather, is a running clock indicating the current time. This can be seen clearly by the fact that the scheduling clock of various implementations is updated “using an internal crystal” (page 12, line 19).

Claims 23 and 37 (claim 32 is also similar) include the phrase “simultaneously maintaining, for at least a period of time, both (1) the synchronized first running elapsed scheduling time clock, and (2) the synchronized second running elapsed scheduling time clock”. Support for this phrase is found, at least, at page 12, lines 20-24, stating:

Controller 60 in other embodiments may create and maintain separate scheduling clocks and/or STT derived time reference and correction information associated with each program broadcast source (e.g. one clock for each broadcast source) using the method of steps 205-215.

This describes receivers that maintain, for example, a first clock synchronized to the current time at a first program source (for example, 1:14 p.m.), and a second clock synchronized to the current time at a second program source (for example, 1:16 p.m.).

Claims 20-26, 28-33, and 35-38 currently stand rejected under 35 U.S.C. § 102(b) over Young. The independent claims are claims 20, 29, and 36. Young does not disclose or suggest, at least (claims 20 and 36; claim 29 is similar; emphasis added):

receiving selection of ... a first program from a first program source, ...
[and] a first program processing function for the first program, ...
synchronizing ... a first running elapsed scheduling time clock ... to ... a
current running elapsed time of day ... at the first program source;
....
initiating the first program processing function based on the comparing of
the synchronized first running elapsed scheduling time clock ... ;

Rather, Young separately describes updating a clock, and initiating a function for a program. Even if Young is assumed to suggest that the function is initiated based on the updated clock, Young does not disclose or suggest that the clock is updated with time information from the source of the program that is being recorded (for example). The

Office Action directs Applicants to portions of Young that state that (Young at col. 13, lines 3-5):

Other information transmitted to the schedule/tape controller 180 ...
includes clock update data to set system clock 230 automatically

Young appears to say little more than this on the topic of updating a clock.

This disclosure in Young does not even suggest that the update is from a program source, much less that the updated clock (after being updated from a program source) would be used to initiate a processing function for a program from the program source. It is just as likely that Young's update comes from a cable provider (for example, Comcast) (see Young's cable input 205 in Figures 22A and 22B). For example, Comcast may provide programs from several program sources (for example, HBO, and local NBC affiliates), and provide clock updates in a vertical blanking interval that provide the current Comcast time. In such an example, the receiver could receive clock updates and thereby know what time it was at Comcast, but the receiver would have no idea what time NBC thought it was. Therefore, the receiver would have no idea of the precise moment when a program from NBC would appear on the cable, because that moment depends entirely on when NBC thinks it is time to start the program (for example, on when NBC thinks it is 8:00 p.m.).

This concept is captured in claim 20 by reciting a "first program from a first program source", and "synchronizing ... a first running elapsed scheduling time clock ... to ... a current running elapsed time of day indicating an amount of time that has already elapsed at the first program source", and "initiating the first program processing function based on the comparing of the synchronized first running elapsed scheduling time clock and the scheduled start time for the first program processing function" (claim 20; emphasis added). These internal connections of (i) tying the clock update to a program source, and then (ii) using the updated clock to initiate processing of a program from the program source, are completely missing from Young.

It should be readily apparent that Young also completely fails to disclose or suggest doing this for a second program source. That is, Young fails to disclose or suggest, at least, (claims 20 and 36; claim 29 is similar; emphasis added):

receiving selection of ... a second program from a second program source,
... and ... a second program processing function for the second program;
....
synchronizing ... a second running elapsed scheduling time clock ... to ...
a current running elapsed time of day ... at the second program source;
....
initiating the second program processing function based on the comparing
of the synchronized second running elapsed scheduling time clock

Young's failure to suggest, much less disclose, these features of claim 20 is no surprise. Young completely fails to appreciate the problem that our claim addresses. Young gives no indication of being remotely aware of the fact that clocks from different program sources may differ by, for example, several minutes, and that, for example, NBC may start its 8:00 p.m. program when HBO thinks it is 7:55 p.m.

The Office Action directs Applicant to Figure 4 of Young and states that Figure 4 "shows that multiple programs on multiple channels can be scheduled for recording, therefore a first and second program with two different clocks from two different sources can provide information for synchronizing a scheduling clock" (Office Action at page 6, last two lines – page 7, first two lines). However, this is inaccurate. Even if Figure 4 shows programs from multiple channels that would have different clocks, Young does not describe or suggest that the system clock 230 would be updated according to the clock of each of those programs/channels. Additionally, Young does not describe or suggest that such an update would occur prior to initiating a program processing function for the respective program/channel.

Thus, claims 20, 29, and 36 are patentable over Young. Additionally, claims 23-26, 28, 32-33, and 35-38, which are subject to the present rejection, and which depend from independent claims 20, 29, and 36, are also patentable over Young for at least the reasons discussed above with respect to independent claims 20, 29, and 36.

Claims 23, 32, and 37 also have additional patentable distinctions over Young. Young does not disclose or suggest, at least (claims 23 and 37; claim 32 is similar):

simultaneously maintaining, for at least a period of time, both (1) the synchronized first running elapsed scheduling time clock, and (2) the

synchronized second running elapsed scheduling time clock.

Young does not remotely begin to contemplate that multiple separate and independent clocks, based on different program sources, should be maintained. Maintaining separate and independent clocks, based on different sources, would be completely wasteful for Young. This is because, even if Young were to maintain such multiple clocks, Young does not describe using such clocks to initiate the processing of programs from the respective sources, so Young would have no use for the multiple clocks. Because Young does not recognize that the local clocks (times) of different program sources may differ, Young does not perceive a need for those clocks (times) in order to initiate processing (for example, recording) of programs from the respective sources.

Claims 27 and 34 currently stand rejected under 35 U.S.C. § 103(a) over Young in view of the ATSC document. Claims 27 and 34 depend from claims 20 and 29, respectively. The applied sections of the ATSC document are not cited to cure, and do not cure, the deficiencies discussed above with respect to claims 20 and 29. Rather, the ATSC document is cited for the disclosure of STT data, which is also discussed in our application. The inventors were well aware of STT data. Accordingly, claims 27 and 34 are patentable for at least the reasons discussed above with respect to claims 20 and 29.

During the January 11 call, the Examiner suggested that the ATSC document may also relate to independent claim 20. Applicant submits, as indicated above with respect to claims 27 and 34, that the applied portions of the ATSC document disclose STT data and do not cure the deficiencies of Young.

Accordingly, all present claims are in condition for allowance, and allowance of all present claims is earnestly requested.

A one-month extension of time fee of \$150.00 is believed to be due by the response and amendment. Applicant is charging this fee against deposit account 07-0832. Additionally, if any other fees or credits are due, please charge such fees against (or apply such credits to) deposit account 07-0832.

Respectfully submitted,

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